

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

CUSTOMER NO. 85358

Applicant: Corts et al.  
Application No.: 09/839,451  
Filed: 04/20/2001  
Title:

Attorney Docket No.: 1003-001

Group Art Unit: 3688  
Examiner: Champagne, Donald

**PETITION TO WITHDRAW A HOLDING OF ABANDONMENT  
UNDER 37 C.F.R. 1.181(a)**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

In response to the Notice of Abandonment mailed August 24, 2009 please consider the following petition.

## **Remarks**

### **Introduction**

Applicants herein petition the Director to withdraw the Holding of Abandonment mailed August 24, 2009.

### **Summary**

Attached is a declaration from the undersigned setting forth the facts as best understood by the undersigned relating to the application to support the petition to withdraw the Holding of Abandonment.

Applicants appreciate the phone conversations with Examiner Robert Weinhardt on November 2, 2009 and Examiner Donald Champagne on November 17, 2009 when this issue was discussed. While no agreement was reached, the possibility of a Petition to the Director was discussed and considered to be a first step to resumed prosecution of the Application.

These facts are summarized herein for convenience.

The Patent Office mailed an Office Action with the Office Action made final to Morgan & Finnegan, LLP at 345 Park Avenue on February 20, 2009 (herein the “first Final OA”).

The Patent Office mailed a second Office Action with the Office Action made final to Morgan & Finnegan, LLP at the same address on March 27, 2009 (herein the “second Final OA”).

Paragraph 31 of the second Final OA states that “the application is subject to abandonment six months after mailing of the *last* Office Action.” (page 8, second Final OA, emphasis added). Six months from March 27, 2009 is September 27, 2009.

Applicants relied on the mailing date of the second Final OA and filed a response on August 26, 2009 with a petition for a two month extension of time and the appropriate fee. This response was timely filed based on the mailing date and the instructions in the second Final OA.

The Patent Office held the application abandoned on August 24, 2009, one month and three days before the application should have been abandoned.

In light of the fact that a response was timely filed to the last mailed Office Action, this holding of abandonment was premature and should be withdrawn. Accordingly, Applicants file the instant petition to have this remedy effectuated so that prosecution can resume.

## **Conclusion**

At least for the foregoing reasons, it is requested that the Holding of Abandonment be withdrawn, the response filed August 26, 2009 be considered and prosecution resumed. It is respectfully submitted that all claims are now in condition for allowance, or in better form for appeal, and the Examiner's early re-examination and reconsideration are respectfully requested.

Alternatively, if there remain any questions regarding the present application or the cited reference, or if the Examiner has any further suggestions for expediting allowance of the present application, the Examiner is cordially requested to contact Taylor M. Davenport at telephone number 203-832-2389 or via electronic mail at [tdavenport@dloip.com](mailto:tdavenport@dloip.com), at the Examiner's convenience.

Respectfully submitted,

November 17, 2009  
Date

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